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Consumer Plaintiffs' Interim Class Counsel

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE APPLE IPHONE ANTITRUST
LITIGATION

Case No. 4:11-cv-06714-YGR-TSH

**ORDER GRANTING ~~PROPOSED~~
SUPPLEMENTAL PROTECTIVE
ORDER GOVERNING DISCOVERY
FROM THE WALT DISNEY
COMPANY**

Hon. Yvonne Gonzalez Rogers

DONALD R. CAMERON, *et al.*,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 4:19-cv-03074-YGR-TSH

EPIC GAMES, INC.,

Plaintiff and Counter-defendant,

v.

APPLE INC.,

Defendant and Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

Having considered Consumer Plaintiffs' Administrative Motion for Entry of Supplemental Protective Orders and any opposition(s) filed in response thereto, and good cause appearing, the Court hereby grants the motion and enters the following order:

A. GENERAL PROVISIONS

1. The definitions, terms and provisions contained in the Stipulated Amended Protective Order on January 21, 2021 (Case No. 4:11-cv-06714-YGR, Dkt. No. 381; Case No. 4:19-cv-03074-YGR, Dkt. No. 252) (the "Protective Order") shall be incorporated herein by reference as though fully set forth herein; provided, however, that in the event of a conflict between any definition, term or provision of this Supplemental Protective Order and any definition, term or provision of the Protective Order, this Supplemental Protective Order will control with respect to such conflict.

2. The definitions, terms and provisions contained in this Supplemental Protective Order shall apply only to those Discovery Materials produced by Disney¹, and nothing herein shall provide any rights or protections to the Parties to the Litigations² beyond those set forth in the Protective Order.

B. ADDITIONAL DEFINITIONS

1. Business Consultant: a consultant advising on or involved in competitive decision-making.

2. Party Expert: with respect to the "DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY" designation, a person with specialized knowledge or experience in a matter pertinent to the Litigations who: (1) has been retained by a Party or its counsel to serve as an expert witness or as a consultant in the Litigations; (2) is not a current employee or current Business Consultant of a Party, Disney, or any Disney competitor, or otherwise currently involved in competitive decision-making for a Party, Disney, or any Disney

¹ Disney shall refer to The Walt Disney Company, Hulu, LLC ("Hulu"), and ESPN Productions, Inc. ("ESPN"). Hulu and ESPN are affiliates of The Walt Disney Company.

² Litigations shall mean *In re Apple iPhone Antitrust Litigation*, Case No. 4:11-cv-06714-YGR; *Cameron v. Apple Inc.*, Case No. 4:19-cv-03074-YGR; and *Epic Games, Inc. v. Apple Inc.*, Case No. 4:20-cv-05640.

competitor; (3) has not, within the 12 months preceding the entry of this Protective Order, been an employee or Business Consultant of a Party, Disney, or any Disney competitor, or otherwise been involved in competitive decision-making for a Party, Disney, or any Disney competitor; and (4) at the time of retention, is not anticipated to become an employee or Business Consultant of a Party, Disney, or any Disney competitor, or to be otherwise involved in competitive decision-making for a Party, Disney, or any Disney competitor. If, while the Litigations are pending, a Party learns that any of its retained experts or consultants as defined herein is anticipating to become, or has become, an employee or Business Consultant of Disney or any Disney competitor, or otherwise involved in competitive decision-making for Disney or any Disney competitor, the Party learning such information shall promptly disclose the information to Disney.

3. “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”
Information or Items: extremely sensitive “Confidential Information or Items” produced by Disney and that contain algorithms and source code; non-public, commercially sensitive customer lists or communications; non-public financial, marketing, or strategic business planning information; past, current, or future non-public information regarding prices, costs, margins, or other financial metrics; information relating to research, development, testing of, or plans for existing or proposed future products; non-public information concerning Disney’s data protection practices and security protocols; evaluation of the strengths and vulnerability of Disney’s product offerings, including non-public pricing and cost information; confidential contractual terms, proposed contractual terms, or negotiating positions (including internal deliberations about negotiating positions) taken with respect to Disney or competitors to Disney; information relating to pending or abandoned patent applications that have not been made available to the public; confidential submissions to governmental entities describing Disney’s legal positions or theories; personnel files; sensitive personally identifiable information; and communications that disclose any such information.

C. ADDITIONAL PROTECTIONS FOR ACCESS TO AND USE OF DISNEY PROTECTED MATERIALS

1. Manner of Designating “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE

1 COUNSEL EYES ONLY” Information or Items. To qualify for protection as “DISNEY
 2 HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY,” Disney must affix the
 3 legend “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to each
 4 page of any document for which Disney seeks protection under this Supplemental Protective
 5 Order.

6 2. Disclosure of “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL
 7 EYES ONLY” Information or Items. Unless otherwise ordered by the Court or permitted in
 8 writing by Disney, a Party may disclose any information or item designated “DISNEY HIGHLY
 9 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” only to:

10 (a) the Party’s Outside Counsel of Record in the Litigations, as well as
 11 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
 12 information for these Litigations and who have signed the “Acknowledgement and Agreement to
 13 be Bound” that is attached to the Protective Order as Exhibit A;

14 (b) Party Experts (as defined in this Supplemental Protective Order) (1) to
 15 whom disclosure is reasonably necessary for these Litigations and (2) who have signed the
 16 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

17 (c) the Court and its personnel;

18 (d) court reporters and their staff, professional jury or trial consultants, and
 19 Professional Vendors to whom disclosure is reasonably necessary for these Litigations and who
 20 have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A); and

21 (e) the author or recipient of a document containing the information.


22 3. All other provisions of the Protective Order, including Paragraphs 2, 3, 4, 5.2, 5.3,
 23 6, 7.1, 9, 10, 11, 12, 13, and 14 apply mutatis mutandis to information designated “DISNEY
 24 HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to the same extent as they
 25 apply to information designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 26 ONLY”; except that the provision in Paragraph 3 of the Protective Order providing that any use
 27 of Protected Material at trial shall be governed by a separate agreement or order shall not apply to
 28 information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES

ONLY.” Unless otherwise ordered by the Court or expressly permitted by Disney, no Party seeking to introduce documents or information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” into the record at trial may disclose the materials to any persons other than those identified in Paragraph C.2. of this Supplemental Protective Order. In the event a Party seeks to introduce documents or information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” at trial in a manner that will result in disclosure to persons other than those specified in Paragraph C.2 of this Supplemental Protective Order, the Party shall promptly notify Disney in writing such that Disney may raise any objection

IT IS SO ORDERED.

June 25, 2021

DATED: ~~May~~ __, 2021


HON. YVONNE GONZALEZ ROGERS
United States District Court Judge

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